

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

UNITED STATES OF AMERICA,)	
)	Criminal No. 5:21-cr-23
v.)	
)	
RICHARD E. MOORE)	

**GOVERNMENT’S SECOND NOTICE REGARDING
INTENT TO INTRODUCE SELF-AUTHENTICATING
RECORDS AT TRIAL UNDER RULES 902(11) AND 902(4)**

Now comes the United States and gives notice of its intent to introduce certain records by certification pursuant to Rules 803(6), 902(11), and 902(4) of the Federal Rules of Evidence.¹ The records, as described below, were previously provided to the defendant in the course of discovery.

Exhibit 1 to this notice contains a Rule 902(11)-compliant certificate executed by a custodian at Mercedes Benz Financial Services on October 9, 2023, which covers records related to a loan for a Mercedes S550. The government has previously produced these records to the defendant as Bates MOORE_USAPROD_0099539 through MOORE_USAPROD_0099555 and MOORE_USAPROD_0127999 through MOORE_USAPROD_0128015.

Exhibit 2 to this notice contains a Rule 902(11)-compliant certificate executed on October 30, 2023 by Alisa Hensley, the custodian at 416 Entertainment. The certificate covers records

¹ Rule 902(11) provides in pertinent part for the self-authentication of “a domestic record of regularly conducted activity that would be admissible under Rule 803(6) if accompanied by a written declaration of its custodian or other qualified person . . . certifying that the record: (A) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters; (B) was kept in the course of the regularly conducted activity; and (C) was made by the regularly conducted activity as a regular practice.”

Rule 902(4) provides in pertinent part for the self-authentication of “[a] copy of an official record — or a copy of a document that was recorded or filed in a public office as authorized by law — if the copy is certified as correct by: (A) the custodian or another person authorized to make the certification.”

related to events that Ms. Hensley planned that were paid with funds from Nexus Services. The government has previously produced these records to the defendant as Bates MOORE_USAPROD_00453432 through MOORE_USAPROD_0454590.

Exhibit 3 to this notice contains a Rule 902(11)-compliant certificate executed on November 6, 2023 by Laura Morton, the custodian and president at Laura Morton Management. The certificate covers records related to a book, *Not Free America*, that Nexus Services paid to write, publish, and publicize. The government has previously produced these records to the defendant as Bates MOORE_USAPROD_0441147 through MOORE_USAPROD_0452370.

Exhibit 4 and 5 to this notice contain two Rule 902(4)-compliant certificates executed by Bernard J. Logan, the clerk of the Virginia State Corporation Commission. The certificates, signed on October 30, 2023, cover records of the business entity documents on file with the Virginia State Corporation Commission for Nexus Services. The government has previously produced these records to the defendant as Bates MOORE_USAPROD_0500787 through MOORE_USAPROD_0500807.

The government also gives notice that it intends to offer, as impeachment evidence, a certified copy of Richard Moore's conviction in Louisa County Circuit Court, which contains a certification pursuant to Rule 902(4) of the Federal Rules of Evidence. On July 13, 2023, Mr. Moore pled guilty by *Alford* plea to the felony crime of uttering a forged document to the prejudice of another's right, in violation of Virginia Code § 18.2-172. The conviction order in that case is certified as a correct copy of an official record by Patty C. Madison, the clerk of the Louisa County Circuit Court. The certified conviction order is attached as Exhibit 5.

Finally, the government gives notice that it intends to offer Internal Revenue Service ("IRS") records containing certifications pursuant to Rule 902(4) and/or 902(11) of the Federal

Rules of Evidence. The government has previously provided the defendant with the IRS records described below during the course of discovery. Because the certifications for the IRS records are voluminous (consisting of several hundred pages), the government has not attached all of them to this notice, but it has attached an example of one such certification at Exhibit 6. Also, the government notes that it is still in the process of obtaining a few additional IRS certifications. Once the government has received all IRS certifications, it will provide these records to the defendant by separate means, such as email or the government's secure version of Box.com. The certified IRS records are as follows:

- Nexus Services' Forms 941 (Employer's Quarterly Federal Tax Return) for quarters ending March 31, 2014; December 31, 2015 through September 30, 2019; and March 31, 2020 through December 31, 2020;
- A Nexus Services' Form 941-PR (Employer's Quarterly Federal Tax Return for employees in Puerto Rico) for the quarter ending March 31, 2020;
- A Nexus Services' Form 941X (Adjusted Employer's Quarterly Federal Tax Return for employees in Puerto Rico) for the quarter ending September 30, 2017;
- Nexus Services' Forms 1120 (U.S. Corporation Income Tax Return) for 2015 through 2020;
- Richard Moore's Form 1040 (U.S. Individual Income Tax Return) for 2015 and Richard Moore and Micheal Donovan's Forms 1040 for 2016 and 2018 through 2020;
- Nexus Services' Form 941 IRS transcripts for employment tax quarters ending March 31, 2014 through December 31, 2020;
- IRS TAXMOD transcript information for Nexus Services for employment tax quarters ending March 31, 2014 through December 31, 2020;
- IRS W-2 transcript information (IRPTRI) for employees of Nexus Services for tax years 2014 through 2020;
- Richard Moore's Form 1040 IRS transcript for 2015 and Richard Moore and Micheal Donovan's Form 1040 IRS transcripts for 2016 through 2020;
- AMS history transcripts showing calls to the IRS from representatives of Nexus Services;
- IRS Form 2848 Power of Attorney signed by Richard Moore on July 3, 2019 appointing power of attorney for Nexus Services' employment taxes for 2010 through 2019;
- IRS Notice CP 220 dated August 5, 2019 notifying Nexus Services that it owed employment taxes for the employment tax quarter ending March 31, 2019; and
- IRS Notice CP504B dated June 24, 2019 notifying Nexus Services that it owed employment taxes for the employment tax quarter ending September 30, 2018.

Pursuant to Rules 803(6), 902(11), and 902(4) of the Federal Rules of Evidence, the government will offer the above exhibits as self-authenticating records of a regularly conducted activity or as copies of official records.

This 13th day of November, 2023.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that I have this date electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

This 13th day of November, 2023.

/s/ William M. Montague
William M. Montague
Trial Attorney
U.S. Department of Justice
Tax Division